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Filing date: **11/25/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91218878
Party	Defendant Mallory, Dawn C.
Correspondence Address	MALLORY, DAWN C. MALLORY, DAWN C. PO BOX 40023 STUDIO CITY, CA 91614-4023  dmallory4648@live.com
Submission	Answer
Filer's Name	Dawn C Mallory
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Date	11/25/2014
Attachments	Answer.pdf(465552 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application:

Serial No.: 86/251893

Filing Date: April 14, 2013

Applicant: Dawn C. Mallory AKA Mallory Licensing Ventures, LLC

Trademark: FYI WOMAN MEDIA & Design

Class: International Class 41

Published: September 16, 2014

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A&E Television Networks

:

Opposer

:

v.

:

Opposition No. 91218878

Dawn C. Mallory AKA Mallory Licensing Ventures :

Applicant.

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**APPLICANT'S ANSWER TO NOTICE OF OPPOSITION AND  
AFFIRMATIVE DEFENSES**

Applicant, Mallory Licensing Ventures, LLC ("Mallory"), for its answer to the Notice of Opposition filed by A&E Networks, LLC. ("A&E") against the application for registration of its trademark FYI WOMAN MEDIA, Serial No. 86/251893 filed April 14, 2014, and published in the Official Gazette of September 16, 2014 (the "Mark"), pleads and answers as follows:

1. Applicant lacks sufficient information upon which to admit or deny the allegations of paragraph one.

2. Applicant lacks sufficient information upon which to admit or deny the allegations of paragraph two.

3. Applicant lacks sufficient information upon which to admit or deny the allegations of paragraph three.

4. Applicant lacks sufficient information upon which to admit or deny the allegations of paragraph four.

5. Applicant lacks sufficient information upon which to admit or deny the allegations of paragraph five.

6. Applicant lacks sufficient information upon which to admit or deny the allegations of paragraph six.

7. Applicant admits the allegations of paragraph seven.

8. Denied.

9. Denied.

10. Denied.

11. Applicant lacks sufficient information upon which to admit or deny the allegations of paragraph eleven.

12. Applicant lacks sufficient information upon which to admit or deny the allegations of paragraph twelve.

13. Applicant lacks sufficient information upon which to admit or deny the allegations of paragraph thirteen.

## **AFFIRMATIVE DEFENSES**

### **First Affirmative Defense**

Opposer fails to state a claim upon which relief can be granted.

### **Second Affirmative Defense**

Applicant has priority by reason of its use in commerce prior to Opposer's application.

### **Third Affirmative Defense**

Opposer has unclean hands, by reason of its knowing misappropriation, conversion, and use of Applicant's confidential and proprietary intellectual property and content.

### **Fourth Affirmative Defense**

There is no likelihood of confusion, mistake or deception because, *inter alia*, the Applicant's mark and the mark of Opposer are not confusingly similar.

### **Fifth Affirmative Defense**

Alternatively, any similarity between the Applicant's mark and Opposer's mark is restricted to that portion of Applicant's mark consisting of the term "FYI," which is not distinctive. As a result, under the anti-dissection rule any secondary meaning Opposer may have in its mark is narrowly circumscribed to the exact mark alleged and does not extend to any other feature of the Applicants mark beyond the term "FYI."

### **Sixth Affirmative Defense**

Opposer's rights in and to the portion of its mark are generic or, in the alternative, merely descriptive of the goods or services offered under the mark. Opposer's mark is therefore inherently unprotectable absent acquired distinctiveness, which the Opposer's mark lacks.

### **Seventh Affirmative Defense**

The term "FYI" is not a term coined by Opposer. Rather, the term "FYI" is a generic term widely known as "for your information".

**Eighth Affirmative Defense**

Opposer's mark is a generic reference to the services offered under the mark, i.e., a television "network".

**Ninth Affirmative Defense**

Opposer's mark is merely descriptive of the services offered under the mark, i.e. a television "network".

**Tenth Affirmative Defense**

Opposer's mark is not inherently distinctive.

**Eleventh Affirmative Defense**

Opposer's mark has not acquired distinctiveness; therefore, has no secondary meaning and cannot function as a trademark.

WHEREFORE, Applicant prays that this opposition be dismissed.

Dated: November 25, 2014

Respectfully submitted,

Mallory Licensing Ventures, LLC

By: 

Dawn C. Mallory

Mallory Licensing Ventures, LLC

P.O. Box 40023

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818-395-3896

Applicant

### **CERTIFICATE OF SERVICE**

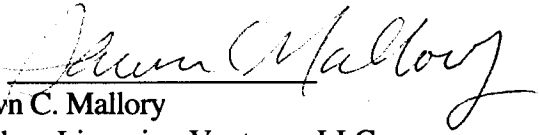
The undersigned hereby certifies that on this 25th day of November, 2014, a true copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES were served in the following manner:

#### **VIA EMAIL AND FIRST CLASS MAIL**

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**212-768-5367**  
**Attorney for A&E Television Networks, LLC**

### **CERTIFICATE OF ELECTRONIC FILING**

The undersigned certifies that this submission (along with any paper referred to as being attached or enclosed) is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals (ESTTA) on this 25th day of November, 2014.

By:   
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